

ESTTA Tracking number: **ESTTA137255**

Filing date: **04/25/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	BEA Systems, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	2315 North First Street San Jose, CA 95131 UNITED STATES		

Attorney information	Parker H. Bagley, Esq. Milbank, Tweed, Hadley & McCloy LLP One Chase Manhattan Plaza New York, NY 10005 UNITED STATES jnici@milbank.com, pbagley@milbank.com Phone:212-530-5000
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Applicant Information

Application No	78918808	Publication date	04/10/2007
Opposition Filing Date	04/25/2007	Opposition Period Ends	05/10/2007
Applicant	Beyond Wireless, Inc. 1-K 29299 Clemens Road Westlake, OH 44145 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Telecommunications services; namely the transmission of voice, data, images, audio, video, and information via telephone or the internet; satellite communication services via global computer network; personal communications services; paging services; wireless telephone roaming communication services; leasing telecommunications equipment, components, systems and supplies; electronic mail services; voice messaging services; providing multiple-user access to global computer networks to transmit, receive and otherwise access and use information of general interest to consumers
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2204254	Application Date	05/09/1996
Registration Date	11/17/1998	Foreign Priority	NONE

		Date	
Word Mark	JOLT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/12/16 First Use In Commerce: 1996/12/16 computer software for transaction processing; client-server software which allows incompatible software to communicate over a network and to access and update data distributed over a network; software for accessing, connecting, developing and managing distributed application software		

U.S. Registration No.	2312547	Application Date	06/10/1998
Registration Date	01/25/2000	Foreign Priority Date	NONE
Word Mark	JOLTBEANS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 Computer software for transaction processing; client-server software which allows incompatible software to communicate over a network and to access and update data distributed over a network; software for accessing, connecting, developing and managing distributed application software		

Related Proceedings	opposition no. 91176184
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Attachments	75499539#TMSN.gif (1 page)(bytes) notice of opposition.pdf (3 pages)(87059 bytes)
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Signature	/phb/
Name	Parker H. Bagley, Esq.
Date	04/25/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Application Serial No. 78/918,808: JOLT GLOBAL,
Filed June 28, 2006; Published in the *Official Gazette* April 10, 2007**

BEA SYSTEMS, INC.,

Opposer,

-against-

BEYOND WIRELESS, INC.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
Attention: BOX TTAB – FEE

Sir:

BEA SYSTEMS, INC., a Delaware corporation, located and doing business at 2315 North First Street, San Jose, CA 95131 (hereinafter referred to as “Opposer”), believes that it will be damaged by the registration of the mark JOLT GLOBAL shown in Application Serial No. 78/918,808 filed June 28, 2006 and published in the Official Gazette on April 10, 2007, by BEYOND WIRELESS, INC. (hereinafter referred to as “Applicant”), and hereby opposes the same.

As grounds for this opposition, Opposer alleges as follows:

1. Applicant seeks to register the mark JOLT GLOBAL (with “GLOBAL” disclaimed) in Class 38, on an intent to use basis. The mark is intended for use on the following: “Telecommunications services; namely the transmission of voice, data, images, audio, video, and

information via telephone or the internet; satellite communication services via global computer network; personal communications services; paging services; wireless telephone roaming communication services; leasing telecommunications equipment, components, systems and supplies; electronic mail services; voice messaging services; providing multiple-user access to global computer networks to transmit, receive and otherwise access and use information of general interest to consumers.”

2. Opposer is a global leader in the computer software industry and has offered software products under the JOLT and JOLT BEANS trademarks (the JOLT Marks) for many years.

3. Opposer is the exclusive owner of the following United States Trademark Registrations in Class 9:

Mark	Registration No.	Date of First Use
JOLT	2,204,254	2/16/1998
JOLT BEANS	2,312,547	5/1998

The above JOLT Marks are valid and subsisting and the foregoing registrations have achieved incontestable status under Section 15 of the Lanham Act, 15 U.S.C. §1065.

4. The JOLT Marks, through their long use, have become associated exclusively with Opposer.

5. Applicant’s registration of JOLT GLOBAL in Class 38 is likely to cause consumer confusion with Opposer’s prior use and registration of the JOLT Marks on related software products in Class 9.

6. Applicant's registration of JOLT GLOBAL in Class 38 is likely to dilute the distinctive quality of Opposer's famous JOLT Marks, within the meaning of 15 U.S.C.

§ 1125(c).

7. In view of the foregoing, registration of Applicant's claimed mark would be damaging to Opposer within the meaning of 15 U.S.C. § 1063.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied to Applicant on its Application Serial No. 78/918,808.

Respectfully submitted,

MILBANK, TWEED, HADLEY & McCLOY LLP

Dated: 4-25-07

By: 

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BEA SYSTEMS, INC.